

REMARKS

Claim Rejections

Claims 19, 21, 23, 25-26, 28-29, 34 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Blinn et al. (U.S. 5,897,622) in view of Gaus et al. (U.S. 6,343,277). Claims 20, 30, and 35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Blinn et al. and Gaus et al. in view of Robinson et al. (U.S. 5,941,648). Claims 24 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over Blinn et al. and Gaus et al. in view of Chebil et al. (U.S. 6,760,481). Claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Blinn et al. and Gaus et al. in view of Lowell et al. (U.S. 6,282,265). Claim 31 is rejected under 35 U.S.C. §103(a) as being anticipated by Blinn et al., Gaus et al. and Robinson et al. as applied to claim 30, in view of Costello et al. (US 6,754,894).

Drawings

It is noted that the Examiner has accepted the drawings as filed on April 12, 2006.

Claims

By this Amendment, Applicant has amended claims 19 and 28 of this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The primary reference to Blinn et al. teaches an electronic shopping and merchandising system having a client (100) connecting to a sever (102) through a network (104).

Blinn et al., states column 6, lines 26-46:

Referring now to FIG. 2, a merchant system 120 communicates with a database 121, a consumer browser 122, a merchant browser 123, and a network 124. In a preferred embodiment, the database 121 comprises data stored locally in one or more storage devices, such as a magnetic disk drive

or an optical disk drive. In another preferred embodiment, the database 121 comprises data distributed across a LAN 108 (FIG. 1) or a WAN 106 (FIG. 1). The database 121 may include query data, product information, order information, shopper information, store information, receipts and customer feedback data. A shopper uses a consumer browser 122, such as Microsoft Explorer or Netscape Navigator, communicating with a network 124, such as the World Wide Web portion of the Internet, to access a merchant's online store using the merchant system 120. Similarly, a merchant uses a merchant browser 123, such as Microsoft Explorer or Netscape Navigator, communicating with the merchant system 120 directly or through a network 124 to manage its online store. There are, of course, typically, a multiplicity of the browsers 122, 123 operating on the network 124 at any time.

Blinn et al., states column 10, lines 48-55:

Similarly, the page processor 140 communicates with the query module 142 as needed to obtain, extract and format information from the database 121 for display on the browser 122, 123. However, in this preferred embodiment, the template parser 144 obtains a template from the HTML structures 126, parses this template to create a syntax tree and delivers the resulting syntax tree to the page processor 140 to create HTML for display on the browser 122, 123.

On page 3 of the outstanding Office Action, the Examiner cited the two section of Blinn et al., listed above, as teaching a first transmission interface utilizing a one-to-many mode, and a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server. However, Applicant respectfully submits that no such distinction is made in Blinn et al.

Blinn et al. do not teach the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor do Blinn et al. teach after the

catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server.

The secondary reference to Gaus et al. teaches an energy network commerce system and is cited for teaching users (76, 78, 80) accessing a network (32) through ISP (82, 84, 86) connected to the internet (40); and an application specific integrated circuit.

Gaus et al. do not teach the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor do Gaus et al. teach after the catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server.

The secondary reference to Robinson et al. teaches a personal digital assistant having a foldable key board component and is cited for teaching the personal digital assistant having a display screen, a direction selection unit, input key, and sensor pen.

Robinson et al. do not teach the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor do Robinson et al. teach after the catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server.

The secondary reference to Chebil et al. teaches a system for processing image data and is cited for teaching a trellis classifying structure.

Chebil et al. do not teach the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor do Chebil et al. teach after the catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server.

The secondary reference to Lowell et al. teaches a two-ended wireline pair identification system and is cited for teaching a series number.

Lowell et al. do not teach the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor do Lowell et al. teach after the catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server.

The secondary reference to Costello et al. teaches wireless software and is cited for teaching an application specific integrated circuit (ASIC) employed to more easily allow the upgrade of a mobile unit's software. It is important to note that the reference does not teach or suggest anything about utilized the ASIC to secure data sent by a user.

Costello et al. do not teach the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor do Costello et al. teach after the catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to

analyze and process the signal, processed data is transferred privately to the data server.

Even if the teachings of Blinn et al., Gaus et al., Robinson et al., Chebil et al., Lowell et al., and Costello et al. were combined, as suggested by the Examiner, the resultant combination does not suggest: the personal digital assistant receiving end receiving the catalogue data actively transferred via an active wireless transmission from the first transmission interface utilizing a one-to-many mode transferring the catalogue data to a plurality of customer receiving ends; nor does the combination suggest after the catalogue is selected and assured by the customer, then a selection is transferred back to the system server via a second transmission interface using a one-to-one mode from the personal digital assistant to inform the system server to analyze and process the signal, processed data is transferred privately to the data server.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Blinn et al., Gaus et al., Robinson et al., Chebil et al., Lowell et al., and Costello et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Blinn et al., Gaus et al., Robinson et al., Chebil et al., Lowell et al., and Costello et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's

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claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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